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Attorney for Petitioner Stanley Williams

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

STANLEY WILLIAMS,	) No. _____
	)
Petitioner,	) <b>EXECUTION IMMINENT</b>
	) <b>DECEMBER 13, 2005</b>
v.	)
	)
S.W. ORONSKI, Warden, San	)
Quenitn State Prison,	)
San Quentin, California,	)
	)
Respondent.	)
_____	)

**ADDITIONAL REQUEST FOR STAY OF EXECUTION**

Petitioner Stanley Williams, by and through his attorney,  
Verna Wefald, respectfully applies to this Court for an order staying  
indefinitely the execution of Petitioner's sentence of death presently

scheduled for 12:01 a.m. on December 13, 2005. Petitioner is filing a  
an application for permission to file a successive petition for writ of  
habeas corpus and has lodged the petition for writ of habeas corpus  
alleging, *inter alia*, actual innocence. In addition, death penalty  
moratorium legislation (Assembly Bill 1121) is currently pending in the  
California Assembly and will be considered in January 2006. This  
application is based on the attached memorandum and exhibits, and on  
the files and record in this case. This request for a stay will be  
withdrawn in the event the Governor grants Stanley Williams clemency.

DATED: December 11, 2005 Respectfully submitted,

VERNA WEFALD  
Attorney for Stanley Williams

## **MEMORANDUM AND POINTS OF AUTHORITIES**

On November 10, 2005, Petitioner Stanley Williams filed a motion with this Court for post-judgment discovery of exculpatory evidence.

On November 30, 2005, this Court denied Petitioner's motion by a vote of four to two. The denial stated, "George, C. J., and Kennard J., would grant the motion."

On December 8, 2005, the Honorable Governor Arnold Schwarzenegger held a private hearing to consider Petitioner Stanley Williams' request for clemency. The Governor has not yet ruled on clemency. This request for a stay will be withdrawn in the event the Governor grants clemency.

Petitioner Stanley Williams' execution is scheduled for Tuesday, December 13, 2005 at 12:01 a.m.

In January 2006, just a few weeks following Petitioner Stanley Williams' scheduled execution, the California Assembly will address Assembly Bill 1121 ("AB 1121"), the "California Moratorium on Executions Act."<sup>1</sup> AB 1121 would temporarily suspend executions

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<sup>1</sup> A copy of AB 1121 is attached as Supp. Exh. 1 (HR 1-3.)

in California while the bi-partisan *California Commission on the Fair Administration of Justice* investigates the causes of wrongful conviction in California and develops a set of recommendations as to how best to prevent the conviction of innocent people and specifically considers the administration of capital punishment in California.

If not repealed or extended, AB 1121 would automatically expire on January 1, 2009, one year and one day after the date the Commission is due to submit its findings and recommendations to the Legislature and the Governor.

Three California death row inmates' petitions to the United States Supreme Court for certiorari were denied in early October 2005. Clarence Ray Allen was given an execution date of mid-January 2006 when his petition was denied on October 3, 2005. One week later, the cert petitions of Stanley Williams and Michael Morales were denied. Morales' execution date will be mid-February 2006. Only Petitioner Stanley Williams' execution was scheduled for 2005. Allen and Morales may benefit from AB 1121, and ultimately from the findings of the Commission, due entirely to the State's decision on the order of executions.

Given the imminence of a decision on AB 1121, this disparate punishment for three individuals whose appeals all ended in early October 2005, is arbitrary at best.

Petitioner Stanley Williams has maintained his innocence for the past 26 years. Two Justices of the California Supreme Court found his claims of withheld and newly discovered exculpatory evidence compelling enough to grant further discovery. Importantly, all of the witnesses who implicated Petitioner Stanley Williams were criminals who were given significant incentives to testify against him and ongoing benefits for their testimony. This type of testimony is the leading cause of wrongful convictions in murder and capital cases in the United States.<sup>2</sup> There is a serious question as to whether Petitioner Stanley Williams' was wrongfully convicted.<sup>3</sup>

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<sup>2</sup> See Center on Wrongful Convictions, *The Snitch System*, Discovery Motion Exhibit "DM Exh." 84[858-873]; also available at [www.law.northwestern.edu/wrongfulconvictions](http://www.law.northwestern.edu/wrongfulconvictions).

<sup>3</sup> Every commission established recently, similar to the *California Commission on the Fair Administration of Justice*, to study the problem of wrongful convictions and the death penalty has concluded, among other things, that the death penalty should not be carried out where a case is primarily based on the testimony of informant witnesses. See Final Report of Massachusetts Governor's Council on Capital Punishment (2004), available at <http://www.mass.gov/Agov2/docs/5-3-04%20MassDPReportFinal.pdf>, Recommendation 6; Illinois Governor's

Petitioner's habeas petition alleges that the new facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense." § 2244(b)(2)(B)(ii).

The California legislature has approved an evaluation of California's criminal justice system to ensure that innocent people are not convicted and not executed, and is currently questioning the propriety of executing individuals while that evaluation is being completed. Petitioner Stanley Williams' case raises serious concerns about the process by which he was convicted and sentenced to death and his habeas petition is pending before this Court.

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Commission on Capital Punishment, *Report of the Governor's Commission on Capital Punishment* (2002), available at <http://www.idoc.state.il.us/ccp/ccp/reports/index.html>, Recommendation 69; the Constitution Project, *Mandatory Justice: Eighteen Reforms to the Death Penalty* (2001), pp. 51-53, summary available at <http://pewforum.org/deathpenalty/resources/reader/23.php3>.

WHEREFORE, this Court should issue an indefinite stay  
of Petitioner Stanley Williams' execution.

Date: December 11, 2005      Respectfully submitted,

VERNA WEFALD

Attorney for Stanley Williams